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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

FILED

08 FEB 13 AM 9:27

UNITED STATES OF AMERICA,

Plaintiff,

v.

Juan Fernando CARDENAS-Guerena,

Defendant(s)

) Magistrate Case No. 08 MJ 04 12


) COMPLAINT FOR VIOLATION OF:

) Title 8 U.S.C., Sec. 1324 (a) (1) (A) (ii) <sup>DEPUTY</sup>  
) Transportation of Illegal  
) Aliens

The undersigned complainant, being duly sworn, states:

On or about **February 11, 2008**, within the Southern District of California, defendant **Juan Fernando CARDENAS-Guerena** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Luis Daniel AVILA-Navarro, Martin HIGAREDA-Avila, and Anselmo GIL-De La Cruz** had come to, entered and remained in the United States in violation of law, did transport and move, said aliens within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

  
\_\_\_\_\_  
SIGNATURE OF COMPLAINANT  
James Trombley  
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 13<sup>th</sup> DAY OF February 2008

  
\_\_\_\_\_  
Anthony J. Battaglia  
UNITED STATES MAGISTRATE JUDGE

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### PROBABLE CAUSE STATEMENT

Furthermore, the complainant states that **Luis Daniel AVILA-Navarro, Martin HIGAREDA-Avila, and Anselmo GIL-De La Cruz** are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On February 11, 2008, Border Patrol Agent J. Abalos was conducting line watch duties in Eastern San Diego County. Agent Abalos was in rough duty Border Patrol uniform, and operating a marked DHS enforcement vehicle with fully functioning emergency lights and audible police siren. Agent Abalos was monitoring activities in an area near Campo, California. This area is located in a remote mountainous region approximately 50 miles east of San Diego, California and 20 miles east of the Tecate, California Port of Entry.

Agent Abalos responded to a seismic intrusion activation near Tierra Del Sol Road in Boulevard, California at approximately 8:00 PM. Agent Abalos walked west from Tierra Del Sol Road to a trail going north from the intrusion device and discovered fresh footprints of approximately fifteen individuals, going north. Agent Abalos followed the footprints for approximately 20 minutes, but lost the footprints south of Zarina Lake Drive. Agent Abalos went back to his vehicle and drove north to Zarina Lake Drive in an attempt to re-acquire the footprints at this location. As Agent Abalos approached Zarina Lake Drive, he observed a blue Chevy Cheyenne 2500 with a large gray tarp covering the bed of the truck, bearing California Licinse plates travel east on Zarina Lake Drive and turn north onto Tierra Del Sol Road. The rear fender wells were hanging over the rear tires, suggesting the truck was laden with considerable weight in the bed of the truck. Given the heavily laden appearance of the vehicle, the timing of the seismic intrusion device to the immediate proximity of the truck to where Agent Abalos was previously following a group, and the fact there is very little traffic on this dirt road at any given time, Agent Abalos suspected the vehicle had loaded the group he was originally following. Agent Abalos began following the vehicle as it turned east onto SR-94. As Agent Abalos followed the vehicle, he observed several hands reach up from inside the bed of the truck and pull the gray tarp down. Agent Abalos requested available agents to assist him conduct a vehicle stop. Border Patrol Agents assigned to the Smuggling Interdiction Group (SIG) were conducting anti-smuggling duties in Eastern San Diego County and drove towards his location to assist him. Agent Abalos followed the vehicle as it turned north onto Ribbonwood Road towards Interstate 8. Agent Abalos followed the vehicle as it turned west onto Interstate 8.

Border Patrol Agents J. Baez and T. Engelhorn, were in plainclothes, and operating unmarked DHS surveillance/enforcement vehicles with fully functioning emergency lights and audible sirens. Agents Baez and Engelhorn situated their vehicles at the bottom of the Kitchen Creek Road off-ramp at opposite ends of the freeway, and waited for the suspect to pass their location. As the truck approached the Kitchen Creek Road off-ramp, Agent Abalos observed it turn off its lights and accelerate down the off-ramp at a high rate of speed. Agent Engelhorn observed the silhouette of the truck, with its lights off, accelerate down the off-ramp and speed past him.

As the truck passed his position at a high rate of speed, it failed to stop at the posted stop sign and continued accelerating back up the on-ramp towards Interstate 8. Agent Engelhorn estimated the vehicle's speed to be in excess of 100 miles per hour when it passed him. Agent Engelhorn pulled away from his position in an attempt to catch up to the vehicle. As Agent Engelhorn drove up the on-ramp, he observed the truck slow down to approximately 25 miles per hour and continue along the side of the on-ramp. Agent Engelhorn

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observed the driver's and passenger's doors open. While the vehicle was still moving at approximately 15 miles per hour, the driver jumped from the moving vehicle and fell down on the road. The vehicle continued forward, finally stopping when the front wheels lodged in a shallow ditch on the north side of the road. Agent Engelhorn saw the driver stand up and run north. Agent Engelhorn observed the driver in his headlights. He was wearing black jeans, a blue denim jacket, and a black baseball cap with the letter SD embroidered on the front. The driver appeared to be of Hispanic descent with a thin black mustache. As the driver absconded on foot towards the north side of the road. Agent Engelhorn turned on his flashlight and pursued the subjects on foot.

Agent Abalos exited his vehicle and secured the suspect vehicle. Eleven subjects were found lying down in the back of the truck under a gray tarp. Two juveniles, ages ten and fourteen, were sitting in the front cab of the truck. Agent Abalos checked the footprints of each subject and recognized them to be the same as the ones he was following prior to encountering the blue Chevy pick-up truck on Tierra Del Sol Road.

Agent Baez followed Agent Engelhorn north of the road and began searching for the driver of the vehicle. Agent Engelhorn relayed the last place he had seen the driver. Agent Baez searched the immediate area and found footprints leading to a chain link fence approximately 20 yards north of the freeway. As he approached the fence, Agent Baez came upon a male subject, later identified as defendant **Juan Fernando CARDENAS-Guerena**, attempting to conceal himself in low lying brush. Agent Baez ordered the subject to stand and called Agent Engelhorn over to identify him. Agent Engelhorn identified the defendant as the individual he saw jump from the driver's door.

Agents Abalos, Engelhorn, and Baez each identified themselves as United States Border Patrol Agents. Agent Abalos questioned all fifteen of these subjects as to their citizenship and immigration status. All fifteen admitted that they were citizens and nationals of Mexico illegally present in the United States. All fifteen were arrested and taken to the El Cajon Border Patrol Station for processing.

#### **DEFENDANT STATEMENT:**

At approximately 10:54 PM, Agent Miranda read CARDENAS his Miranda rights. CARDENAS said that he understood his Miranda rights and that he was willing to answer questions without an attorney present. CARDENAS said that he is a citizen and national of Mexico, illegally present in the United States without any immigration documents allowing him to enter, be or remain in the United States legally. CARDENAS does not have any petitions pending.

CARDENAS claimed that he was robbed in Tijuana, Baja California, Mexico and \$1,000.00 USD was taken from him. According to CARDENAS, he was going to use that money to cover his smuggling fee. After being robbed, CARDENAS met with an alien smuggler in Tijuana and made arrangements to drive a pickup truck occupied with a group of illegal aliens. CARDENAS would take the group to another location where he would meet a person who would take over for him.

CARDENAS was told by the smuggler that his smuggling fee would be waived. On February 11, 2008, after agreeing to the above arrangements, CARDENAS was taken to Tecate, Baja California, Mexico where he met and joined the group that he crossed with. This took place at approximately 7:00 PM. Approximately one hour later, CARDENAS and everyone in the group illegally entered into the U.S. through a hole on the boundary fence. The group walked for approximately half an hour and arrived in an area close to a ranch near a dirt road. CARDENAS was then taken to another location where he met an unknown individual waiting for him inside a white Honda. The subject drove CARDENAS to a location where he was told he

would meet another subject in another vehicle who would take over for him. CARDENAS returned to the group. CARDENAS and the rest of the group got inside the pickup truck. After everyone in the group was inside the pickup truck, CARDENAS drove away, taking the same route that he had just been shown. AS

Shortly after departing in the pickup truck, CARDENAS noticed that he was being followed by a vehicle whom he believed to be a Border Patrol Agent. CARDENAS became very nervous but continued taking the route he had been shown. After being followed, CARDENAS said that he began to accelerate, driving fast in an attempt to elude the agent behind him, even though a traffic stop had not been attempted on him. CARDENAS turned off his headlights and got off from the highway at the same location where he was supposed to meet the other subject taking over for him. After stopping, CARDENAS ran to the brush from the vehicle. CARDENAS said that he was arrested right away.

#### **MATERIAL WITNESSES STATEMENTS:**

Material witnesses **Luis Daniel AVILA-Navarro, Martin HIGAREDA-Avila, and Anselmo GIL-De La Cruz** admit in summary that they are citizens and nationals of Mexico illegally present in the United States. They made arrangements in Tijuana with a smuggler to be smuggled into the United States for amounts ranging from \$1600 to \$1800. Witnesses **AVILA** and **HIGAREDA** were destined for Thousand Oaks, California and witness **FIGUEROA** was to go to Los Angeles. On February 12, 2008, at approximately 8 P.M., as a group, they crossed the border on foot near Tecate, California. They walked for about thirty minutes before arriving at a dirt road where a blue pick-up truck was waiting for them. They drove for approximately fifteen minutes before they were encountered by the Border Patrol. Witness **HIGAREDA** was in fear for his life because the driver was driving extremely fast.